

STATE OF UTAH INSURANCE DEPARTMENT

REPORT OF FINANCIAL EXAMINATION

of

**UTAH BUILDERS INSURANCE COMPANY**  
**(Now known as Utah Business Insurance Company)**

of

Sandy, Utah

as of

December 31, 2007

## TABLE OF CONTENTS

SALUTATION .....	2
SCOPE OF EXAMINATION .....	2
Period Covered by Examination .....	2
Examination Procedures Employed .....	2
Status of Prior Examination Findings .....	3
HISTORY .....	3
General .....	3
Capital Stock .....	3
Dividends to Stockholders.....	3
Management .....	4
Conflict of Interest Procedure .....	5
Corporate Records.....	5
Acquisitions, Mergers, Disposals, Dissolutions, and Purchases or Sales through Reinsurance..	5
Surplus Debentures.....	5
AFFILIATED COMPANIES .....	5
Administrative Service Agreement .....	6
Claims Administration Agreement.....	7
Other Transactions with Shareholders.....	7
FIDELITY BOND AND OTHER INSURANCE .....	7
PENSION, STOCK OWNERSHIP AND INSURANCE PLANS .....	7
STATUTORY DEPOSITS .....	7
INSURANCE PRODUCTS AND RELATED PRACTICES .....	8
Policy Forms and Underwriting .....	8
Territory and Plan of Operation .....	8
Advertising and Sales Material .....	8
Treatment of Policyholders .....	9
REINSURANCE .....	9
Assumed .....	9
Ceded.....	9
ACCOUNTS AND RECORDS.....	10
Custodial Agreement.....	10
SUBSEQUENT EVENTS .....	10
Company Name Change.....	10
Board of Directors .....	10
Management .....	10
Audit Committee .....	10
Surplus Note .....	11
Change in Independent Auditor.....	11
Change in Actuary.....	11
Administrative Service Agreement and Reinsurance Brokerage Agreement.....	11
FINANCIAL STATEMENTS .....	13
BALANCE SHEET .....	14
STATEMENT OF INCOME .....	15
RECONCILIATION OF CAPITAL AND SURPLUS .....	16
NOTES TO FINANCIAL STATEMENTS.....	16
SUMMARY OF EXAMINATION FINDINGS.....	17
ACKNOWLEDGEMENT .....	18

February 23, 2010

Honorable Neal T. Gooch  
Acting Insurance Commissioner  
Utah Insurance Department  
3110 State Office Building  
Salt Lake City, UT 84114-6901

In accordance with your instructions and in compliance with Utah Code Annotated (U.C.A.) Title 31A, an examination was conducted as of December 31, 2007, of the financial condition and business affairs of:

**UTAH BUILDERS INSURANCE COMPANY**  
**(Now known as Utah Business Insurance Company)**  
Sandy, Utah

A stock property and casualty insurance company, hereinafter referred to as the “Company,” and the following report of examination is respectfully submitted.

**SCOPE OF EXAMINATION**

Period Covered by Examination

This is the first financial examination of the Company, called by the Utah Insurance Department (Department) to cover the period from the Company’s inception date of March 16, 2006 through December 31, 2007, including any material transactions and/or events occurring subsequent to the examination date noted during the course of the examination.

Examination Procedures Employed

The examination was conducted in accordance with the National Association of Insurance Commissioners (NAIC) *Financial Condition Examiners Handbook* to determine compliance with accounting practices and procedures in conformity with the applicable laws of the state of Utah, and insurance rules promulgated by the Utah Insurance Department (Department). The Handbook requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company and evaluating system controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with Statutory Accounting Principles (SSAPs) and annual statement instructions when applicable to domestic state regulations.

The Company retained the services of an independent certified public accounting (CPA) firm to audit its financial records for the years under examination. Review and reliance was placed on certain portions of the CPA work for our examination.

A letter of representation obtained from management certified that all significant matters were disclosed, and attested to the Company's ownership of all assets and to the nonexistence of unrecorded liabilities.

#### Status of Prior Examination Findings

This is the first examination of the Company, and therefore no prior examination findings on which to comment.

### HISTORY

#### General

The Company was incorporated on February 10, 2006, received its Certificate of Authority dated March 16, 2006, to write workers' compensation insurance, and commenced business on April 1, 2006, as Utah Builders Insurance Company. The Articles of Incorporation were amended on December 12, 2006, to add a second class of stock, which was approved by the Department on June 8, 2007.

#### Capital Stock

The original Articles of Incorporation authorized 10,000,000 shares of common voting stock with a par value of \$1.00 per share. The December 12, 2006, amendment to the Articles authorized the 10,000,000 shares of stock to consist of two classes; 4,000,000 shares designated as common stock and 6,000,000 shares as preferred cumulative non-voting stock. As of December 31, 2007, the Company had 826,511 shares of common stock and 40,840 shares of preferred stock issued and outstanding, each class having a par value of \$1.00.

#### Dividends to Stockholders

No dividends to stockholders were declared or paid from March 16, 2006, through December 31, 2007.

## Management

The Company's bylaws indicated the number of directors to be no less than three, and no more than nine. The following persons served on the board of directors as of December 31, 2007.

<u>Name and Residence</u>	<u>Principal Occupation</u>
Ronald E. Nielsen, Chairman Lindon, Utah	President A Good Brick Mason, Inc.
Steve F. Caldwell Murray, Utah	Vice President Whitewater Whirlpool
G. Wayne Harris Sarasota, Florida	Chairman of the Board of Directors Risk Services, LLC
David L. Oakden Las Vegas, Nevada	Owner and Manager S&C Claims Services
J. Bradley Simons Sandy, Utah	Owner and Vice President Cottage Real Estate and Construction

The Company's bylaws provide that principal officers shall consist of three separate persons, including a president, secretary, and treasurer, and any other officers as needed. The following persons served as of December 31, 2007:

<u>Principal Officer</u>	<u>Office</u>
G. Wayne Harris	President
J. Bradley Simons	Treasurer
Steve F. Caldwell	Secretary

As of December 31, 2007, the Company's board of directors had one principal committee, with members as follows:

### Finance Committee

J. Bradley Simons  
Lionel Castillo  
Paul Magleby  
Scot Jones

During the period of examination the Company did not have an Audit Committee as required by U.C.A. § 31A-5-412. Subsequent changes in the composition of the board of directors and management and the formation of the Audit Committee are disclosed in the SUBSEQUENT EVENTS section of this report of examination.

#### Conflict of Interest Procedure

The Company had no written conflict of interest policy in effect during the examination period. A conflict of interest policy was subsequently drafted, and statements were signed by persons currently serving as directors and officers as of August 2008, meeting NAIC requirements. The Company will keep current its conflict of interest statements on an annual basis.

#### Corporate Records

Corporate records generated during the examination period were reviewed as applicable to our examination. The records consisted of minutes from the meetings of Company shareholders, directors, and committees. The minutes contained detailed information about the Company including current events, appointments, elections, investment transactions, and regulatory issues. In general, the minutes adequately approved and supported the Company's transactions and events.

#### Acquisitions, Mergers, Disposals, Dissolutions, and Purchases or Sales through Reinsurance

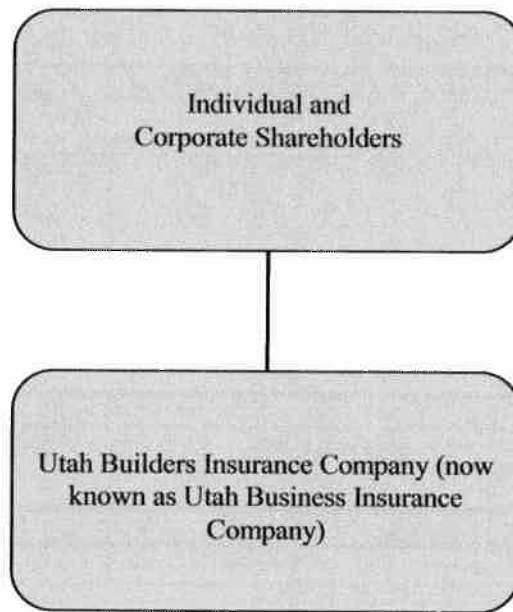
There were no acquisitions, mergers, disposals, dissolutions and purchases or sales through reinsurance that involved the Company during the examination period.

#### Surplus Debentures

The Company had no surplus debentures in effect, issued or retired during the years 2006 through 2007. A surplus debenture was issued in 2008 as further discussed in this report of examination under SUBSEQUENT EVENTS.

### AFFILIATED COMPANIES

At December 31, 2007, the Company is wholly-owned and controlled by various shareholders, both individual persons and corporate shareholders, none of which owned ten percent (10%) or more of issued and outstanding stock. The Company is not a member of an insurance holding company system. Its organizational chart is as follows:



During the period ending December 31, 2007, Company transactions with the Company's shareholders, affiliated companies, and management personnel include the following:

Administrative Service Agreement

On March 16, 2006, the Company entered into an "Administrative Service Agreement" with one of its shareholders, Risk Services, LLC (RSLLC), a Virginia company. RSLLC owned 61,301 shares (7.42%) of common stock of the 826,511 issued and outstanding shares of common stock at December 31, 2007. Pursuant to the agreement RSLLC provides certain services to the Company, for which the Company pays RSLLC a fee of 11.5% of earned normal premium. Fees paid during 2006 and 2007 were \$61,823 and \$356,010, respectively, of which \$59,011 was payable at December 31, 2007.

The Company grants exclusive authority to RSLLC to represent it as overall administrator, manager, and coordinator of all activities for the Company, including but not limited to policy underwriting, qualifying, and pricing; issuing coverage certificates, policies and endorsements; maintaining individual insured policy files; billing and premium collection functions; and developing and maintaining the policy and premium data on its information systems. RSLLC also provides coordination services between the Company and its claims administrator, and assists in negotiating reinsurance.

As of December 31, 2007, certain problems were noted with terms of the administrative service agreement. The examination determined RSLLC was not licensed to perform all of the services outlined by the agreement, as it did not maintain a Managing General Agent (MGA) license as defined under U.C.A. § 31A-23a-601, nor did RSLLC have a non-residence Third Party Administrator (TPA) license as defined under U.C.A. § 31A-25-201. Please refer to comments in the SUBSEQUENT EVENTS

section of this report of examination for subsequent remedies related to this administrative service agreement.

#### Claims Administration Agreement

On April 30, 2006, the Company obtained the services of another TPA, S&C Claims Services, Inc. (S&C), a Nevada corporation. As of December 31, 2007, David Oakden, Owner and Manager of S&C, owned 18,750 shares of common stock (2.3%) of the Company. David Oakden is also a member of the Company's board of directors. S&C reviews and processes all claim and loss reports; conducts investigations; arranges for independent investigators, medical or other experts; pays benefits; provides claims administrative and clerical work; makes notifications to excess insurers on any claims that exceed insurer's retention; monitors treatment programs related to claims; and furnishes insurer, or its administrator, with necessary loss and information reports. For services provided, the Company pays S&C a service fee based on a percentage of premiums earned and received. Fees for the years ended December 31, 2006 and 2007 were \$26,880 and \$154,787, respectively, of which \$25,657 was payable at December 31, 2007.

#### Other Transactions with Shareholders

The Company reported payables to its shareholders for loans and services rendered to the Company in the amount of \$42,517 and \$78,760 at December 31, 2006 and 2007, respectively.

The Company funded mortgage loans to certain shareholders in the amount of \$437,652 for the year ended December 31, 2007.

#### FIDELITY BOND AND OTHER INSURANCE

The minimum fidelity coverage suggested by the NAIC for a property and casualty insurance company of this size is between \$125,000 and \$150,000. As of the examination date, the Company was covered by a fidelity bond with an aggregate liability of \$2,000,000.

#### PENSION, STOCK OWNERSHIP AND INSURANCE PLANS

The Company outsourced its operations to a management company and a claims administrator. Therefore, having no employees, it offered no employee benefits or insurance plans through December 31, 2007.

#### STATUTORY DEPOSITS

Pursuant to U.C.A. § 31A-4-105 the Company was required to maintain a deposit in the amount of its minimum capital requirement at December 31, 2007. The Company's



minimum capital requirement was \$300,000 as determined by U.C.A. § 31A-5-211. The Utah Insurance Department confirmed the following assets, and also certified that the assets were held in accordance with U.C.A. § 31A-2-206 at December 31, 2007.

<u>State</u>	<u>Type of Asset</u>	<u>Book Value</u>	<u>Fair Value</u>
Utah	Zions Bank - Dreyfus Treasury Cash Mgmt	\$200,000	\$200,000
Utah	Federal Nat'l Mortgage Assn Debt 1/15/09	\$101,281	\$100,294
Total All Deposits		<u>\$301,281</u>	<u>\$300,294</u>

## INSURANCE PRODUCTS AND RELATED PRACTICES

### Policy Forms and Underwriting

A list of policy forms and rates used in Utah was provided, and based upon review the Company appears to have properly filed all forms in use at December 31, 2007.

### Territory and Plan of Operation

At December 31, 2007, the Company's certificate of authority provided for writing workers' compensation business in the state of Utah. The Company began issuing policies in mid-year 2006 and has experienced rapid growth in business during the past year and a half. Approximately thirty-seven percent (37%) of the Company's gross premium is direct writings, and sixty-three percent (63%) is assumed from Benchmark Insurance Company, an unaffiliated Kansas domestic insurer.

Both insurers write policies through independent agencies, and all direct and assumed business is exclusively with Utah policyholders. A review of the Company's list of agencies did not agree with insurance producer appointments on file with the Department. For 2006-2007, the Company reported fifty-six (56) active agencies. The appointments on file with the Department for that time period totaled thirty-three (33) active agencies. Failure to maintain current and accurate information regarding the Company's agency appointments, is a violation of U.C.A. § 31A-23a-115. The Department performed a post fieldwork review, which is disclosed under SUBSEQUENT EVENTS.

### Advertising and Sales Material

The Company advertises primarily through personal contacts and marketing by its president and other officers. The Company also offers onsite safety inspections and monthly safety training to its policyholders.

### Treatment of Policyholders

The Company received no policyholder complaints, and there were no formal consumer complaints logged into the Department's Sircon database during the examination period.

## REINSURANCE

### Assumed

On September 16, 2006, the Company entered into a quota share reinsurance agreement with Benchmark Insurance Company (Benchmark), with respect to certain policies written in the State of Utah. Under the terms of this agreement, Article II, the Company assumes 100% of the premiums, losses and loss adjustment expenses from Benchmark, related to "workers' compensation and employers' liability business produced by Risk Services, LLC (RSLLC), a Florida corporation, and identified by the Company as the "Risk Services Contractors Program". The Company's losses covered by this agreement are limited by the excess coverage purchased by the ceding company. During 2007, the \$2,202,768 assumed premiums comprised 63% of the Company's total business.

The Company also covers Benchmark 100% for extra contractual obligations and excess of original policy limits under this agreement. The Company pays a ceding commission of 40.10% of premium; 14.75% of which is paid to Benchmark as a fronting fee, 20.50% is paid to RSLLC for program administration and agent commission, and 4.85% is paid to a third party administrator. Losses and loss adjustment expenses incurred under this agreement during 2006 and 2007 were \$47,000 and \$2,260,000, respectively; of which \$1,689,000 was payable at year-end 2007.

### Ceded

The Company has excess of loss reinsurance for protection against large losses. The Company retains the first \$500,000 of ultimate net loss on any one policy for any one occurrence, and the reinsurer covers the next \$6,500,000 layer from \$500,000 to \$7,000,000, with two free reinstatements, for a total of three claims in the layer. This layer is subject to an aggregate deductible of \$500,000. Coverage for a fourth claim in this layer may be available for additional premium.

In addition, the Company is covered under a facultative excess loss reinsurance contract which provides statutory coverage for losses in excess of \$7,000,000 for members of the "Risk Services Admitted Contractors Program", a listing of which is attached to the reinsurance agreement. The reinsurer's limit of liability is 100% of the statutory excess of \$7,000,000 for each accident and 100% of the statutory excess of \$7,000,000 for each employee disease, covering the listed members.

## ACCOUNTS AND RECORDS

This examination was conducted at the Company's location at 11487 South 700 East, Draper, Utah, where the Company's accounts and records were available as required by U.C.A. § 31A-5-401. All documents and accounting information was provided by either the Company or its manager RSLLC.

As of December 31, 2007, the Company's accounting system consisted of a general ledger, registers, statistical and other records maintained primarily on information systems equipment and software.

The following comments are made concerning the Company's accounts and records.

### Custodial Agreement

The Company had one custodial agreement in effect, which did not meet the requirements of U.A.C. Rule R590-178 at December 31, 2007. A new agreement was subsequently executed on April 4, 2008, meeting all Utah requirements, and was approved by the Company's board of directors on April 21, 2008.

## SUBSEQUENT EVENTS

### Company Name Change

The Company's Articles of Incorporation were amended and restated on January 31, 2008, changing its name from "Utah Builders Insurance Company" to "Utah Business Insurance Company," in line with its decision to expand workers' compensation insurance to businesses in industries other than construction.

### Board of Directors

Subsequent to the examination period, the resignation of G. Wayne Harris was accepted, and Jonathan Harkavy, Executive Vice President and General Counsel, Professional Business Owners Association (PBOA)/Risk Services, LLC, was appointed to replace Mr. Harris as a member of the board of directors, effective April 21, 2008.

### Management

On April 21, 2008 the board of directors appointed Ronald E. Nielsen to replace G. Wayne Harris, as President of the Company.

### Audit Committee

On March 16, 2009, the Audit Committee was formed by resolution of the board of directors. On April 20, 2009, the Audit Committee was reorganized to be comprised by no less than three members of the board of directors, and no member of the Audit Committee would be an inside director. To meet all requirements of U.C.A. § 31A-5-412,

the board of directors ratified the appointment of the following directors as members of the 2009 Audit Committee: Steven Pfeiffer, David L. Oakden, and Steve F. Caldwell.

#### Surplus Note

The Company issued a surplus note, dated December 1, 2008, in the amount of \$1,500,000 to Mr. Steven Pfeiffer, an individual. Interest payments are to be LIBOR plus 4.75%, to be payable quarterly beginning March 1, 2009, with Departmental approval. The Company plans to use these funds to improve growth and expansion. The March, June, and September 2009 requests for interest payment were denied by the Department, given the impact it would have on the Company's current RBC. After a subsequent analytical review, on December 23, 2009, the commissioner approved the requested surplus note interest payment of \$83,637.58 representing the interest accrued through November 23, 2009.

#### Change in Independent Auditor

On February 19, 2008, the Company's board of directors made a change in its appointed audit firm. The 2006 financial statement audit was provided by Shores, Tagman, Butler & Co., of Sarasota Florida. Larson & Rosenberger of Salt Lake City, Utah provided the 2007 audit. This change was made in order to retain a local audit firm, more familiar with the Utah area, clients, industry, and Utah insurance laws. Each audit provided a clean opinion on a statutory reporting basis.

#### Change in Actuary

The Statement of Actuarial Opinion was prepared by Anthony J. Burke of Milliman, Inc. for each year 2006 and 2007. The Company's board of directors approved a change in actuaries during 2008 to Taylor-Walker & Associates, which will prepare the 2008 actuarial opinion.

#### Producer Appointments

A further review of Company agencies listed as of December 31, 2007, was conducted to determine what corrective actions the Company had taken to comply with U.C.A. § 31A-23a-115. All but one (1) of the listed agency appointments were subsequently filed with the Department, as of the April 2010 post examination review.

#### Administrative Service Agreement and Reinsurance Brokerage Agreement

On July 8, 2008, the Department put the Company on written notice that RSLLC was not licensed as an MGA or TPA, and the contract with RSLLC required immediate attention. It should be noted RSLLC maintained a non-resident reinsurance intermediary broker license, effective April 20, 2006, and it held a non-resident producer organization license, effective October 30, 2006. The Department sent a second letter to RSLLC on October 23, 2008, further defining RSLLC's licensing requirements. RSLLC failed to cure the licensing discrepancy within the 90 day cure period, and the Company proceeded

on January 26, 2009 with a letter of intent to run out by April 25, 2009. The Department extended the April 25<sup>th</sup> deadline to July 15, 2009, allowing time for RSLLC to provide to the Company all of its books, records and other documents to which it was entitled.

As a result of the Department notice, RSLLC obtained a TPA license in its home state of Virginia, which under U.C.A. § 31A-25-206, could be recognized by the Utah Insurance Department, in the event the contract would be significantly modified. However, appropriate contract revisions were not made. Also, RSLLC obtained a non-residence TPA license effective December 10, 2008, to comply with U.C.A. § 31A-25-206.

On July 12, 2009, a Settlement Proposal, acceptable to the Department, was entered into between the Company and RSLLC. The Settlement Proposal addressed the administrative service agreement and the reinsurance intermediary arrangement, as well as RSLLC's licensing requirements; maintenance and access to the data systems; regulatory compliance; fronting carrier relationships; management of the Company; functions involving underwriting, investments, accounting, office expenses; amounts currently payable; contract provisions involving termination, term of the agreement, fees; and other open discussion items.

Three newly executed agreements between UBIC and RSLLC, known as the "Administrative Service Agreement", the "Addendum to Administrative Service Agreement", and the "Reinsurance Brokerage Agreement" were approved by the Company's board of directors on November 25, 2009, to be retro-actively effective July 1, 2009. These agreements were provided to the Department on December 10, 2009.

The Department's legal counsel determined these agreements and addendum, as presented, do not fall under the purview of U.C.A. § 31A-5-417, and therefore, approval by the Department of these agreements is not required. and stated that the agreements as presented are properly representative of administrative services and reinsurance brokerage arrangements.

Both parties have agreed to dismiss all litigation pending in Federal Court related to these arrangements and agreements, and are working on the Utah Insurance Department's suggested re-wording and clarifications at the time of this report draft.

## FINANCIAL STATEMENTS

The following financial statements were prepared from the Company's accounting records and the valuations and determination made during the examination:

BALANCE SHEET as of December 31, 2007

STATEMENT OF INCOME for the Year Ended December 31, 2007

RECONCILIATION OF CAPITAL AND SURPLUS - 2006 through 2007

The accompanying NOTES TO FINANCIAL STATEMENTS are an integral part of the financial statements.

UTAH BUILDERS INSURANCE COMPANY  
BALANCE SHEET  
As of December 31, 2007

ASSETS

	Net Admitted Assets Per Examination	<u>Notes</u>
Bonds	\$3,158,172	
Common stocks	1,228,720	
Mortgage loans on real estate	437,652	
Cash & Short-Term Investments	1,400,276	
Investment income due and accrued	37,908	
Uncollected premiums, agents' balances	1,338,693	
Net deferred tax asset	53,552	
Total assets	<u>\$7,654,972</u>	

LIABILITIES, SURPLUS, AND OTHER FUNDS

Losses	\$2,501,900	
Loss adjustment expenses	153,216	
Commissions payable, contingent commissions	20,585	
Other expenses	183,906	
Taxes, licenses and fees	141,048	
Current federal and foreign income taxes	38,663	
Ceded reinsurance premiums payable	186,056	
Amounts withheld or retained by company for account of others	1,135,734	
Total liabilities	<u>\$4,361,108</u>	
Common capital stock	\$826,511	
Preferred capital stock	122,520	
Gross paid in and contributed surplus	2,564,382	
Unassigned funds (surplus)	(219,549)	
Total Surplus as regards policyholders	<u>\$3,293,864</u>	(1)
Total liabilities, capital and surplus	<u>\$7,654,972</u>	

UTAH BUILDERS INSURANCE COMPANY  
STATEMENT OF INCOME  
For the Year Ended December 31, 2007

	Current Year Total	Notes
Premiums earned	\$ 6,239,392	
Losses incurred	3,125,065	
Loss expenses incurred	562,419	
Other underwriting expenses	2,507,631	
Total underwriting deductions	<u>6,195,115</u>	
Net underwriting gain	44,277	
Net investment income earned	127,827	
Net realized capital gains	7,752	
Net investment gains or (losses)	<u>135,579</u>	
Net income before federal and foreign income taxes	<u>179,856</u>	
Federal and foreign income taxes incurred	<u>38,663</u>	
Net income	<u><u>\$ 141,193</u></u>	



UTAH BUILDERS INSURANCE COMPANY  
RECONCILIATION OF CAPITAL AND SURPLUS  
2006 through 2007

	2006	Per Exam 2007	Notes
Capital and surplus prior reporting year	\$0	\$1,468,935	
Net income or (loss)	(406,102)	141,193	
Change in unrealized capital gains (losses)		(5,407)	
Change in net deferred income tax	47,749	(14,481)	
Change in nonadmitted assets		17,500	
Change in provision for reinsurance			
Transfer from surplus (stock dividend)			
Change in paid in capital	446,536	502,494	
Change in paid in surplus	1,380,752	1,183,630	
Net change in capital and surplus	<u>\$1,468,935</u>	<u>\$1,824,930</u>	
Examination adjustments			
Capital and surplus end of reporting year	<u><u>\$1,468,935</u></u>	<u><u>\$3,293,864</u></u>	(1)

NOTES TO FINANCIAL STATEMENTS

The following adjustments and notes are made to the financial statements as reported at December 31, 2007.

Note (1): Minimum capital and risk-based capital:

As defined by U.C.A. § 31A-17 Part 6, the Company had total adjusted capital, per examination, of \$3,293,864, which was sufficient to meet the authorized control level of \$1,201,708, and Company action level of \$2,403,436. The Company's Risk Based Capital (RBC) was 2.81 at December 31, 2007.

The Company's minimum capital requirement was \$300,000 pursuant to U.C.A. §31A-5-211. The Company maintains security deposits with the Department to cover its minimum capital requirement.

## SUMMARY OF EXAMINATION FINDINGS

Items of significance commented on in this report, and recommendations are summarized below:

- 1) At December 31, 2007, the Company was not in compliance with U.C.A. § 31A-5-412, which requires an audit committee. (HISTORY Management and SUBSEQUENT EVENTS)

*Subsequent Remedy:* Subsequently the Company's board of directors established an Audit Committee, and on April 20, 2009, staffed the committee with the appropriate members, bringing it into compliance with U.C.A. § 31A-5-412 as of the end of fieldwork.

- 2) During the examination period, the Company had no written conflict of interest policy in effect, and no signed disclosure statements as required by the NAIC Financial Condition Examiners Handbook. (HISTORY)

*Subsequent Remedy:* A conflict of interest policy was drafted by August 2008, and signed statements were provided to examiners from persons serving as directors and officers as of August 2008.

- 3) The Company's Administrative Service Agreement with RSLLC had significant issues, including, but not limited to type of agreement, licensing requirements, and non-compliance with Utah Code. (AFFILIATED COMPANIES and SUBSEQUENT EVENTS)

*Subsequent Remedy:* On December 10, 2009, the Company provided the Department with copies of newly executed Administrative Service Agreement, plus Addendum, and a Reinsurance Brokerage Agreement, all effective retroactively to July 1, 2009, pursuant to the July 12, 2009, Settlement Proposal between the Company and RSLLC. The Department has determined that the Administrative Service Agreement qualifies as a third party administrator agreement, for which RSLLC obtained a license during 2009 in its home state. The Department also reviewed the Reinsurance Brokerage Agreement and it appears to spell out the duties and responsibilities of a true reinsurance intermediary broker agreement, pursuant to U.C.A. § 31A-23a-802.

- 4) During 2006 and 2007, the Company and/or its administrator failed to maintain current and accurate information regarding agency appointments with the Utah Insurance Department, a violation of U.C.A. § 31A-23a-115. (INSURANCE PRODUCTS AND RELATED PRACTICES)

*Subsequent Remedy:* All but one (1) of the agency appointments were found to be in agreement with the Department's database as of the April 2010 comparison conducted after end of examination fieldwork.

- 5) At December 31, 2007, the Company's custodial agreement did not meet the requirements of U.A.C. Rule R590-178. (ACCOUNTS AND RECORDS)

*Subsequent Remedy:* A new agreement was subsequently executed on April 4, 2008, meeting all requirements, and was approved by the Company's board of directors on April 21, 2008, in accordance with U.A.C. Rule R590-178.

#### ACKNOWLEDGEMENT

Michael Lamb, FCAS, MAAA of Michael Lamb, LLC, performed the actuarial phase of the examination. Colette M. Hogan Sawyer, CFE, CPM, PIR, Assistant Chief Examiner supervised the examination. Aaron Phillips, CFE, Financial Examiner and Brandon Thomas, HISP, of Huff, Thomas and Company, participated in the examination representing the Department. They join the undersigned in acknowledging the assistance and cooperation extended during the course of this examination by officers, employees, and representatives of the Company.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Carolyn Maynard".

Carolyn Maynard, CFE, Examiner-in-Charge  
Huff, Thomas and Company  
Representing the Utah Insurance Department